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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

(TRIMESTER 1, 2019/2020)

UPI 3712 – PUBLIC INTERNATIONAL LAW

(All Sections / Groups)

23 OCTOBER 2019

Reading Time : 2.30pm - 2.45pm
(15 Minutes)

Answering Time : 2.45pm – 5.45pm
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 4 Questions only.
3. Attempt question 1A **or** 1B. Questions 2-4 are compulsory. The distribution of the marks for each question is given.
4. Students are not allowed to bring in any statutes into the Examination Hall.
5. Please write all your answers in the Answer Booklet provided

PART A (Attempt 1A OR 1B from this section)**QUESTION 1A**

“International law is accepted in practice as legally binding by States in their intercourse because it is useful to reduce complexity and uncertainty in international relations by laying down orderly, predictable and binding principles.”

(Abdul Ghafur Hamid)

Discuss the various theories relating to the juridical basis of the international law with reference to the above statement.

(Total: 25 Marks)

OR

QUESTION 1B

Farwest Country is a State with nuclear weapons. It has a dispute over an island, Beautiful Lady, with its neighbouring State, Nearnorth Country. Both States agreed to settle the dispute through arbitration. The award was given in favour of Nearnorth Country. Farwest Country is not happy with the decision and started an operation to invade Beautiful Lady. The surroundings States are worried since both countries have nuclear weapons, and started to urge them to resolve dispute through a peaceful settlement. Discuss the principle of peaceful settlement at international level, and all the available methods not involving adjudication that may be applied to this issue.

(Total: 25 Marks)

Continued...

PART B(Answer **ALL** from this section)**QUESTION 2**

There was an insurrectional movement in State A, aiming to overthrow its existing Government. The rebel forces were gaining ground, defeating the government forces in many parts of the country. Before retreating from the capital city of State A, the government forces had destroyed all the factories and industries owned by nationals of State B.

A few days later, the government forces unconditionally surrendered. The insurrectional movement formed a new Government, headed by its leader Mr. X who became the new President of State A. Since State A was facing with economic crisis, the President on his first day of presidency passed a Presidential Decree, confiscating the assets of a multinational oil company incorporated in State C.

A few months after that, a tourist from State D was jungle-trekking in a deep forest which was declared by the Tourism Department of State A as an out of bound area where cruel aborigines were at large. He was killed by an aborigine.

Discuss how and to what extent the national States of the victims in the above-mentioned occurrences can make international claims against State A under international law.

(Total: 25 Marks)**QUESTION 3**

Article 36(1) of the Statute of the International Court of Justice says,

“The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.”

Discuss the above article with reference to contentious cases.

(Total: 25 Marks)**Continued....**

QUESTION 4

The Unicorn was a trawler owned by the State Fishing Enterprise of Phoenicia, a sovereign State, and was on the high seas while the Dolphin, one of its boats, was fishing at sea about 110 nautical miles off the Malaysian coast, closely watched by the *KD Sri Putra*, a frigate of the Royal Malaysian Navy. The Dolphin then set off, shadowed by the *KD Sri Putra*, to the place where the Unicorn was waiting and transshipped the cargo onto the Unicorn. The *KD Sri Putra* signaled to the Unicorn to stop in order to do boarding and searching. Neglecting the order, the Unicorn sped up further to the open sea pursued by the *KD Sri Putra*. Only with the use of guns, was the *KD Sri Putra* able to arrest the Unicorn, which was later taken to Port Klang. The case was brought before the Magistrate Court, which decided to imprison the crew, all of whom were Phoenician nationals, and forfeited the vessel.

The Government of Phoenicia objected to the arrest on the grounds that the Unicorn had never been within Malaysian waters and never violated Malaysian laws, and that it was taking specimen of fishes only for research purposes, and that the use of guns was not necessary and reasonable and thus in breach of the lawful exercise of the right of hot pursuit. They further argued that the Malaysian court has no jurisdiction as the Unicorn was a government-owned vessel, protected by immunity and that the imprisonment of the crew and the forfeiture of the vessel were contrary to the Fisheries Act 1985.

Advise the Attorney-General's Chamber of Malaysia in accordance with international law of the sea, on the rebuttal against claims made by the Government of Phoenicia.

(Total: 25 marks)

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